HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 25396 of 2007

Dated: 29-11-2007

Between:

Pakkurthi Nooka Raju and 9 others.

..... PETITIC

AND

The District Collector,
East Godavari,
Kakinada and 2 others.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 25396 of 2007

O R D E R:

This writ petition is filed for a writ of Mandamus to declare notification dated 22-10-2007 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'), whereunder an extent of Ac.8.06 cents belonging to the petitioners situated in Sy.Nos.271/1 and 242/2 of S.Agraharam village, Rowthulapudi Mandal, East Godavari District is proposed to be acquired, as illegal and arbitrary.

A perusal of the averments contained in the affidavit and the material filed along with the writ petition shows that the respondents have issued notification, dated 22-10-2007, under Section 4(1) of the Act. A reading of the said notification reveals that respondent No.1 authorized respondent No.2 to hold enquiry under Section 5A of the Act.

Sri N.Siva Reddy, learned counsel for the petitioners submitted that on an earlier occasion on the proposals sent by Mandal Revenue Officer, Rowthulapudi, the respondents have even prepared a draft notification to acquire the lands belonging to two persons namely Sri Ajjarapu Pulleswara Rao, S/o Subba Rao and Smt. Pasala Surayyamma, W/o late Satyanandam. According to the learned counsel, due to political pressure excerpted by the said two persons, the said proposals were dropped by the respondents and the present notification is issued in order to acquire the lands of the petitioners, who are all small farmers and will not be left with any other land, if the lands notified under the present notification are acquired.

Having carefully considered the averments of the learned counsel for the petitioners, I am not inclined to interfere with the acquisition proceedings initiated by the respondents at this stage. To enable the owners of the lands, which are proposed to be acquired, the Act provided a valuable opportunity to them by way of Section 5A of the Act, whereunder they are entitled to file all their legally sustainable objections and the Land Acquisition Officer is duty bound to objectively consider the same. It is only when the objections filed by the owners of the land are found not tenable in law, that the Land Acquisition

Officer can proceed further with the proposed acquisition. The petitioners have not satisfactorily explained as to why the said opportunity envisaged by law is not effective and the Court, should entertained the writ petition at this stage ignoring the provisions of Section 5A of the Act.

The writ petition is therefore dismissed. The petitioners are given liberty to file all legally sustainable objections including the objection that on extraneous considerations, the earlier proposals to acquire the lands of the said two individuals were dropped and the petitioners' lands were sought to be acquired. I have no manner of doubt that the Land Acquisition Officer will objectively consider all these objections before taking further decision on the proposed acquisition.

Subject to the above, the writ petition is dismissed.

C.V.NAGARJUNA REDDY,J

Date: 29-11-2007
KLP